

1 **REMARKS**

2 Applicant thanks Examiner Kimberly Lockett for the Examiner telephone interview
3 on May 19, 2004 and the outstanding Office Action dated November 19, 2004. Applicant
4 respectfully requests reconsideration and allowance of the subject application. Claims 54-
5 59 are cancelled with prejudice in order to facilitate allowance and issuance of claims 40-
6 53. Accordingly, claims 40-53 are pending.

7 **Extension Fees**

8 A Response to the Office Action dated November 19, 2004 was filed by Applicant
9 on February 19, 2004. This response was filed within the 3 month due date for extension
10 fees. Therefore, no extension fees are required in the filing of this Request for Continuing
11 Examination (RCE). A copy of the "Auto-Reply Facsimile Transmission" showing receipt
12 of the Response follows this Response.

13 Applicant has engaged Examiner Lockett and paralegal Wynette Stapor in
14 numerous communications via email and telephone inquiring into the receipt of the
15 Response dated February 19, 2004. In addition, Applicant filed a copy of the Response on
16 May 3, 2004 via U.S. Postal Service First Class mail using a Return Receipt and via
17 facsimile to 571-273-1626. Applicant has been informed on numerous occasions by
18 Examiner Lockett and paralegal Wynette Stapor that the Response has not been delivered
19 within the Office to Examiner Lockett or paralegal Wynette Stapor.

20 **Examiner Interview**

21 A telephonic interview was conducted by Applicant Attorney Michael G. Smith on
22 May 19, 2004 with Examiner Lockett. In the interview, Examiner Lockett indicated that
23 claims 40-53 were allowable over the obviousness-type double-patenting rejection in the
24 Office Action dated November 19, 2004 because of the absence of "a unitary component

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1 formed from a single folded or bent plate material with a base plate portion and a spring
2 portion so that said unitary component is connected directly to the springs" in the cited
3 references. Accordingly, Applicant submits this Request for Continuing Examination with
4 only claims 40-53 pending.

5 **Claim for Priority**

6 The present application (10/930,279) is a national stage application filed under 35
7 USC § 371. Applicant requests acknowledgment that the present application has met the
8 requirements of 35 USC § 371 and that the filing date is the international filing date of
9 PCT application PCT/US98/20376, filed on 10/29/1998.

10 **Request For Reconsideration**

11 **I. Obvious Type Double Patenting Rejection**

12 Claims 40-53 were rejected under the judicially-created doctrine of obviousness-
13 type double patenting as being unpatentable over all the claims of US Patent 6,563,034 and
14 US Patent 5,986,191. Applicant respectfully traverses these grounds for rejection.

15 The Examiner has the burden to show that (1) the inventions claimed (2) are not
16 patentably distinct and (3) are based on a prima facie showing of obviousness. This
17 analysis must be based on what the claim defines and not on the claim language itself, as
18 required by the Federal Circuit:

19 [I]t is important to bear in mind that comparison can be made only
20 with what invention is *claimed* in the earlier patent, paying careful attention
21 to the rules of claim interpretation to determine what invention a claim
22 *defines* and not looking to the claim language for anything that happens to be
23 mentioned in it as though it were a prior art reference. ... [W]hat is claimed
24 is what is *defined by the claim taken as a whole*, every claim limitation ...
25 being material. *General Foods Corp. V. Studiengesellschaft Kohle mbH*,
972 F.2d 1272, 23 USPQ 2d, 1839, 1845 (Fed. Cir. 1992). (emphasis in
original.)

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2 Applicant respectfully submits that the Office Action has not made a prima facie
3 case of judicially-created obviousness-type double patenting because the Examiner did not
4 consider the US Patent 6,563,034 claims as a whole. Instead, the Examiner picked certain
5 elements of the US Patent 6,563,034 claims to combine with US Patent 5,986,191 while
6 ignoring other elements of the US Patent 6,563,034 as if the US Patent 6,563,034 claims
7 were a prior art reference, which is expressly prohibited by the doctrine of non-statutory
8 double patenting. For example, the Examiner ignored the "separate means ...additional
9 contact point for gripping said at least one of said strings" elements in the 6,563,034
10 claims, which are not present in applicant's claims.

11 Assuming, arguendo, that we accept the examiner's assertion as to the differences
12 between the instant invention and the art of record. The examiner points to column 2, lines
13 46-48, of either US Patent 6,563,034 or US Patent 5,986,191 for a disclosure of the
14 "unitary component." The unitary component, however, is not disclosed at the reference
15 point mentioned by the examiner. In fact, the unitary component as claimed is not
16 disclosed in either of the cited patents. The examiner has not made a prima facie case of
17 judicially-created obvious-type double patenting.

18 Therefore, since the claims of US Patent 6,563,034 have one or more element not
19 found in the present claims, the double patenting rejection should be withdrawn.
20 Alternatively, since the unitary component is not disclosed in either US Patent 6,563,034
21 or US Patent 5,986,191 the double patenting rejection should be withdrawn.
22

23 Amended Claims

24 Pending claims 40, 43, and 45-53 are amended to improve the readability of the
25 claims. Pending claims 40-42 46, and 50 are amended to change means-for-function
aspects to apparatus aspects.

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1 C nclusion

2 All pending claims 40-53 are in condition for allowance. Applicant respectfully
3 requests reconsideration and prompt issuance of the subject application. If any issues
4 remain that prevent issuance of this application, the Examiner is urged to contact the
5 undersigned applicant before issuing a subsequent Action.

6
7 Respectfully Submitted,

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9 Dated: May 19, 2004

By: Michael G. Smith

Michael Smith
Reg. #45,368

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15 ***Certificate of Transmission***

16 I hereby certify that this correspondence is being facsimile transmitted to the United States
17 Patent and Trademark Office, Fax No. 703-872-9306 on May 19, 2004.

18 Typed or printed name of person signing this certificate:

19
20 Michael G. Smith

21
22 Signature: Michael G. Smith

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Claim Listing under 37 C.F.R. 1.121(c):

Amend claims 40-43, 45-46, 50 as follows and in accordance with 37 C.F.R. 1.121(c), by which the Applicant submits the following marked up version, wherein the markings are shown by strikethrough (for deleted matter) and/or underlining (for added matter):

Version with markings to show changes made

Claims 1-39 (canceled).

Claim 40 (Currently amended) A stringed musical instrument comprising:
an elongated neck,
~~a~~and body attached to one end of the said neck,
a tremolo pivotably mounted on said body,
a plurality of strings with a first end and a second end,
~~means on said neck, for supporting and forming a first critical point for~~on at least
one of said strings,
~~said tremolo further comprising:~~including
bridge elements forming a support and a second critical point for at least
one of said strings,
a string anchor ~~means engaging~~ said second end of said at least one of said
strings,
a base plate,
a spring ~~attachment means,~~and
counter springs with a first end and a second end, said first end of said
counter springs connected to said body and said second end of said

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1 counter springs secured to said spring ~~attachment means~~ for counter
2 balancing the tension ~~of said~~ of said at least one of said strings,
3 wherein said base plate and said spring ~~attachment means~~ comprise:
4 an unitary component formed from a single folded or bent plate
5 material with a base plate portion and a spring ~~attachment means~~ portion so
6 that said unitary component is connected directly to the ~~biasing~~ springs.

7 Claim 41 (Currently amended) An apparatus of claim 40 wherein said string
8 anchor ~~means~~ is located in said ~~attachment means~~ portion.

9 Claim 42 (Currently amended) An apparatus of claim 41 wherein said string
10 anchor ~~means~~ comprises at least one string passageway within said spring ~~attachment~~
11 ~~means~~ portion.

12 Claim 43 (Currently amended) An apparatus of claim 42 wherein said base plate
13 portion comprises at least one string holes for threading said at least one of said strings and
14 said at least one string passageway is aligned to said openings in said base portion.

15 Claim 44 (Original) An apparatus of claim 40 wherein said base plate portion is
16 formed to create at least one tier for displacing the height of at least one said bridge
17 elements relative to said body.

18 Claim 45 (Currently amended) An apparatus of claim 40 wherein said tremolo
19 is further comprises a fulcrum tremolo.

20 Claim 46 (Currently amended) An apparatus of claim 40 wherein said unitary
21 component has at least one reinforcement ~~brace~~ arranged between said base plate portion
22 and said spring ~~attachment means~~ portion.

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1 Claim 47 (Currently amended) An apparatus of claim 46 wherein said unitary
2 component is formed to create said at least one reinforcement-brace.

3
4 Claim 48 (Currently amended) An apparatus of claim 40 wherein said tremolo
5 ~~includes~~further comprises a macro-tuner.

6 Claim 49 (Currently amended) An apparatus of claim 40 wherein said tremolo
7 ~~includes~~further comprises a global-tuner.

8 Claim 50 (Currently amended) An apparatus of claim 45 wherein said fulcrum
9 tremolo ~~including~~further comprises a bearing means for adjustably mounting said fulcrum
10 tremolo on said body for pivotal displacement and said bearing means comprises at least a
11 portion of a ball bearing surface.

12 Claim 51 (Currently amended) An apparatus of claim 42 wherein said tremolo
13 ~~includes~~further comprises a global-tuner.

14
15 Claim 52 (Currently amended) An apparatus of claim 44 wherein said tremolo
16 ~~includes~~further comprises a macro-tuner.

17 Claim 53 (Currently amended) An apparatus of claim 44 wherein said tremolo
18 ~~includes~~further comprises a global-tuner.

19
20 Claims 54-59 (canceled).

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